by the proposed new rule and report back to Congress before any new royalty valuation rule can go into effect. But to ensure that this is not dragged out too long, we have directed that the GAO's report on the issue be submitted to Congress within 6 months. Finally, the provision requires that any new proposal by the MMS must comply fully with all applicable Federal laws, including those requiring the establishment of oil value at the lease, that is, at the wellhead.

Mrs. HUTCHISON. I thank the Senator for that explanation, and for his leadership and hard work on this issue. I think he will agree that while this provision is certainly less than we would have liked and is less than the moratorium passed by the Senate, and, I might add, passed by the Congress and signed into law by the President on no less than three previous occasions, it is a step in the right direction.

I would also like to get the comments of my colleague from Louisiana, Senator BREAUX, who has been a stalwart supporter of reasonable and workable royalty valuation rules on his assessment of this issue.

Mr. BREAUX. I thank the Senator, and I thank all of my colleagues who have worked with me on this important matter. I certainly agree with the comments of the Senators from Texas and New Mexico that the proposed MMS royalty valuation rule simply will not work. Regulations should reflect a fair, reliable, and accurate royalty valuation system.

The issue here is really very simple: How do you set the fair market value of crude oil extracted from Federal lands on which to base the royalty calculation? Oil companies do not determine how much they have to pay—we do. Congress set the royalty percentage in the Mineral Leasing Act, the Outer Continental Shelf Lands Act, and other Federal laws and these laws provide that the royalty percentage to the Federal Government is ⅙ or ⅛ of the total value of the oil.

This is a very complicated, ongoing rulemaking procedure to assess legitimate deductions and transportation costs in order to determine the fair market value of oil. But how do you determine the price of oil that is produced in the middle of the Gulf of Mexico? You can very easily determine the price of oil at the wellhead, if you sold the oil at the wellhead, some 200 miles offshore. However, the oil is transported hundreds of miles onshore where it is refined and then ultimately sold. The question then becomes: Who pays for the transportation of the oil from the middle of the gulf? It is the Federal Government's oil. Do the companies pay for the transportation or does the Federal Government? There is a huge disagreement on this very difficult and complicated issue.

We say to the Interior Department, in the Interior appropriations conference report, that the rule is fundamentally flawed. It does not allow for the legitimate deductions in the costs of transportation that should be allowed. Therefore, do not go forward with this rule. Instead, we are giving Congress and the Interior Department time to come to an agreement on what is appropriate and I am pleased that we have been able to at least delay the rule until a suitable solution can be determined.

Mr. MURKOWSKI. I thank the Senator from Texas, as well as the Senators from New Mexico, Oklahoma, and Louisiana who have all been steadfast in their desire and commitment to ensuring a royalty valuation process that is fair to both the American taxpayer and to domestic producers. As was spelled out in the report accompanying this conference agreement, the GAO, at a minimum, must thoroughly examine and answer several central issues and answer several key questions. Among those questions the GAO must fully answer are:

1. Does the OCSLA and the MLLA require that a producer pay royalty on the value added by post-production downstream activities?

2. Does the Interior Department proposed rule allow royalty payors to obtain timely valuation methodology determinations on which they can rely similar to the practice of Internal Revenue Service letter rulings?

3. Does the proposed rule provide that the ''gross proceeds'' method utilized in valuation of arms-length transactions can not be later set aside for an alternative methodology (resulting in penalties and interest) simply because another entity was able to obtain a higher value for the sale of production in the open marketplace?

Mrs. HUTCHISON. I thank the Senator. I would also like to ask the distinguished assistant majority leader, Senator NICKLES, what, in his view, must be examined by the GAO in its study?

Mr. NICKLES. I thank the Senator. There are, indeed, other key questions that must be thoroughly reviewed and discussed by the GAO study. Specifically:

1. For non-arms length transactions; the GAO should study the use by the MMS of comparable sales as a measure of value of production at the lease, provided the lessee satisfies prescribed information and sales volume requirements. This study should not be limited to the Rocky Mountain region only, but studied for use in all areas.

2. The GAO must study the adoption of alternative ratemaking principles for DOI use in establishing the commercial rate for transportation when oil is sold downstream of the lease. GAO must also examine what adjustments are reasonable for location and quality of production and post-production activities when oil is sold downstream of the lease.

This seems to be the best way to arrive at a fair, accurate, and concise calculation of the fair market value of production at the lease.

I am confident that in this way producers and the Federal Government would be ensured a fair and workable royalty payment system.

Mr. DOMENICI. If the Senator will yield, I must say I agree with my colleagues, Senators HUTCHISON, MURKOWSKI, and NICKLES, who represent, along with myself, the key committees of jurisdiction over this issue. The GAO study that we have mandated must, at a minimum, provide a thorough examination of these issues, as detailed here and in the conference report.

Mrs. HUTCHISON. Mr. President, I thank my colleagues for their guidance and continuing interest in this regard. Finally, I believe my colleagues would agree that it would be useful if the MMS would repropose its oil valuation rule. It has been nearly 2 years since the agency put forward its last complete proposed rule. The DOI has received voluminous comments since that time, including detailed recommendations by industry at three public workshops on the rule earlier this year. It also re-opened the comment period for a month earlier this year. In trying to resolve this matter, it would be helpful if all the parties could understand the agency's current thinking on the contentious issues my colleagues have described. Reproposing the rule would be the best way to achieve that result and I strongly encourage the agency to do so.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5506. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled ''Surface Transportation Board Reauthorization Act of 1999''; to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself and Mr. HATCH):

S. 1769. A bill to continue reporting requirements of section 2519 of title 18, United States Code, beyond December 21, 1999, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. HATCH, Mr. CRAIG, Mr. COVERDELL, Mr. MCCONNELL, Mr. GREGG, Mr. GORTON, Mr. FRIST, and Mr. ASHCROFT):

S. 1770. A bill to amend the Internal Revenue Code of 1986 to permanently extend the

research and development credit and to extend certain other expiring provisions for 30 months, and for other purposes; read the first time.

By Mr. ASHCROFT (for himself, Mr. HAGEL, Mr. BAUCUS, Mr. DODD, Mr. BROWNBACK, Mr. KERREY, Mr. ROBERTS, Mr. DORGAN, Mr. DASCHLE, Mr. ABRAHAM, Mr. ALLARD, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mr. BURNS, Mr. CONRAD, Mr. CRAIG, Mr. CRAPO, Mr. DURBIN, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMS, Mr. HARKIN, Mr. HUTCHINSON, Mr. INHOFE, Mr. JEFFORDS, Mr. KERRY, Mr. LEAHY, Mrs. LINCOLN, Mr. CHAFEE, Mr. THOMAS, and Mr. WARNER):

S. 1771. A bill to provide stability in the United States agriculture sector and to promote adequate availability of food and medicine for humanitarian assistance abroad by requiring congressional approval before the imposition of any unilateral agricultural medical sanction against a foreign country or foreign entity; read the first time.

By Mrs. MURRAY:

S. 1772. A bill to amend the Elementary and Secondary Education Act of 1965 to foster family and school partnerships for promoting children's educational achievement through strengthening family involvement and providing professional development to school staff, and to amend the Higher Education Act of 1965 to provide for parenting education programs; to the Committee on Health, Education, Labor, and Pensions.

S. 1773. A bill to amend the Elementary and Secondary Education Act of 1965 to increase student involvement, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, and Mr. HATCH):

S. 1769. A bill to continue reporting requirements of section 2519 of title 18, United States Code, beyond December 21, 1999, and for other purposes; to the Committee on the Judiciary.

CONTINUED REPORTING OF INTERCEPTED WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS ACT

Mr. LEAHY. Mr. President, I am pleased to introduce today a bill to continue and enhance the current reporting requirements for the Administrative Office of the Courts and the Attorney General on the eavesdropping and surveillance activities of our federal and state law enforcement agencies.

For many years, the Administrative Office (AO) of the Courts has complied with the statutory requirement, in 18 U.S.C. §2519(3), to report to Congress annually the number and nature of federal and state applications for orders authorizing or approving the interception of wire, oral or electronic communications. By letter dated September 3, 1999, the AO advised that it would no longer submit this report because ''as of December 21, 1999, the report will no longer be required pursuant to the Federal Reports Elimination and Sunset Act of 1995.''

The AO has done an excellent job at preparing the wiretap reports. We need to continue the AO's objective work in a consistent manner. If another agency took over this important task at this juncture and the numbers came out in a different format, it would immediately generate questions and concerns over the legitimacy and accuracy of the contents of that report. In addition, it would create difficulties in comparing statistics from prior years going back to 1969 and complicate the job of Congressional oversight. Furthermore, transferring this reporting duty to another agency might create delays in issuance of the report since no other agency has the methodology in place. Finally, federal, state and local agencies are well accustomed to the reporting methodology developed by the AO. Notifying all these agencies that the reporting standards and agency have changed would inevitably create more confusion and more expense as law enforcement agencies across the country are forced to learn a new system and develop a liaison with a new agency.

The system in place now has worked well and should be continued. We know how quickly law enforcement may be subjected to criticism over their use of these surreptitious surveillance tools and we should avoid aggravating these sensitivities by changing the reporting agency.

The bill would update the reporting requirements currently in place with one additional reporting requirement. Specifically, the bill would require the wiretap report to include information on the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plaintext of communications intercepted pursuant to such order.

Encryption technology is critical to protect sensitive computer and online information. Yet, the same technology poses challenges to law enforcement when it is exploited by criminals to hide evidence or the fruits of criminal activities. A report by the U.S. Working Group on Organized Crime titled, ''Encryption and Evolving Technologies: Tools of Organized Crime and Terrorism,'' released in 1997, collected anecdotal case studies on the use of encryption in furtherance of criminal activities in order to estimate the future impact of encryption on law enforcement. The report noted the need for ''an ongoing study of the effect of encryption and other information technologies on investigations, prosecutions, and intelligence operations. As part of this study, a database of case information from federal and local law enforcement and intelligence agencies should be established and maintained.'' Adding a requirement that reports be furnished on the number of occasions when encryption is encountered by law enforcement is a far more reliable basis than anecdotal evidence on which to assess law enforcement needs and make sensible policy in this area.

The final section of this bill would codify the information that the Attorney General already provides on pen register and trap and trace device orders, and require further information on where such orders are issued and the types of facilities—telephone, computer, pager or other device—to which the order relates. Under the Electronic Communications Privacy Act (''ECPA'') of 1986, P.L. 99–508, codified at 18 U.S.C. §3126, the Attorney General of the United States is required to report annually to the Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice. As the original sponsor of ECPA, I believed that adequate oversight of the surveillance activities of federal law enforcement could only be accomplished with reporting requirements such as the one included in this law.

The reports furnished by the Attorney General on an annual basis compile information from five components of the Department of Justice: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service and the Office of the Inspector General. The report contains information on the number of original and extension orders made to the courts for authorization to use both pen register and trap and trace devices, information concerning the number of investigations involved, the offenses on which the applications were predicted and the number of people whose telephone facilities were affected.

These specific categories of information are useful, and the bill we introduce today would direct the Attorney General to continue providing these specific categories of information. In addition, the bill would direct the Attorney General to include information on the identity, including the district, of the agency making the application and the person authorizing the order. In this way, the Congress and the public will be informed of those jurisdictions using this surveillance technique—information which is currently not included in the Attorney General's annual reports.

The requirement for preparation of the wiretap reports will soon lapse. I therefore urge prompt action on this legislation to continue the requirement for submission of the wiretap reports and to update the reporting requirements for both the wiretap reports submitted by the AO and the pen register and trap and trace reports submitted by the Attorney General.

Mr. President I ask unanimous consent that the full text of the bill be printed in the RECORD.